

EXHIBIT A

Wednesday, August 21, 2019 at 12:19:35 PM Eastern Daylight Time

Subject: RE: Letter for Kimberly Milbrandt
Date: Friday, August 16, 2019 at 4:30:04 PM Eastern Daylight Time
From: Berkson, Hugh D.
To: 'Eric Rothschild'
CC: Alex Elson, Mary K Whitmer
Attachments: Milbrandt Student Record Letter v2 (01350685-3).doc

Eric,

Your approach to this entire matter is encapsulated in the first sentence of your email in which you expressed frustration that I “would not” share information regarding the identity of the contractor responsible for destroying the records on site in Georgia. I told you, repeatedly and in no uncertain terms, that I did not have that information and could not share what I did not have. I also told you I was trying to find that information. How, under any tortured analysis, is that a willing refusal to share information readily at hand? Rather, and as usual, when things don’t move at a pace you deem acceptable, or if you don’t get what you want, you start with the accusations and threats. That said, the fact remains that I will get you the information once I have it. If that is unacceptable to you, I am confident you will take whatever steps you deem appropriate – and we will respond accordingly.

We included in the draft letter for Ms. Milbrandt a list of the documents we believed would have been kept on site and were destroyed. You obtained a different list from Dr. Manulkin. Despite the fact that the author of that list would be in the best position to explain its contents to a third party recipient considering a student’s record, you have refused to obtain a letter on the topic directly from Dr. Manulkin. Given your refusal to gain the best evidence, I have attached a draft letter I am prepared to ask Mark to sign. If this iteration will satisfy you, I’ll return an executed copy to you. If you intend to edit the letter further, please be advised that we will consider edits that promote clarity, but we have no intention of adopting the majority of the edits you suggested regarding the last draft you redlined. While the purpose of the letter we drafted (per your request) was to explain that certain records were irretrievably destroyed through no fault of any student, your draft was intended to do little more than shame the Receiver. We decline to take that approach.

-Hugh

From: Eric Rothschild <eric@nsldn.org>
Sent: Thursday, August 15, 2019 2:04 PM
To: Berkson, Hugh D. <hdb@mccarthylebit.com>
Cc: Alex Elson <alex@nsldn.org>; Mary K Whitmer <mkw@weadvocate.net>; Eric Rothschild <eric@nsldn.org>
Subject: Re: Letter for Kimberly Milbrandt

Hugh:

Thank you for participating in the call today. However, I was disappointed that you would still not provide the information about who destroyed Ms. Milbrandt and our other clients’ files, when that happened, and how that happened. You said that you don’t have that information yet, and explained this by saying that these students’ interests in finding out what happened to their documents “are not at the top of the pile.” You also would not give me a date by which that information would be provided, even though the Receiver’s obligation to provide this information has existed since the Court ordered the Receiver to produce it on June 3 (Dkt. 353), and we have been politely requesting it in numerous communications since that time.

This is information the Receiver must already have. The Receiver represented to the Court that it had conducted an investigation into the loss of the records and that a "liquidator inadvertently designated the First Floor Records for destruction." (Dkt. 356). Time records indicate that the destruction had been discovered no later than early May. You also indicated to us through the draft letter from Mr. Dottore to Ms. Milbrandt that "a contractor ignored instructions to preserve documents and destroyed records of Ms. Milbrandt kept by the school." These representations could only have been made if the Receiver knew who the liquidator and/or contractor was and what instructions it had ignored. No new investigation should be required for the Receiver to provide the information the students are requesting. Please provide us that information by Friday.

As regards the letter, we think it is essential that it include the following elements that were not in your draft: (a) who Mark Dottore is (the Receiver); (b) that he had custody of the documents after the school closed and at the time they were destroyed; (c) that the students did not have access to the documents after the school closed; and (d) that the documents were destroyed by a contractor retained by the Receiver (assuming this is accurate—see above). All these elements are necessary so that future recipients of this letter (schools, licensing agencies) can make sense of why the writer of this letter is providing this account of why the student doesn't have documents she would otherwise be expected to have. As regards other elements of the letter, such as the student not giving permission to destroy or her efforts to recover, I will go back to my clients to see if they can dispense with them in the interest of getting this done.

Finally, you stated that you prefer to use a list of documents described to you by DCEH employees Anne Dean and Connie Edelman, who I do not believe have first-hand knowledge of the documents maintained by the school, to the list that GSPP Training Director Alisa Manulkin, who *does* have first-hand knowledge, has validated. Our clients have confirmed to us that the list that you included in your draft letter is incomplete.

The letter should obviously include a complete list, not an incomplete list, of documents. We believe we proposed a very reasonable way to accomplish that, which was to have you use our more complete list, but get validation from the subject-matter expert, Dr. Manulkin that the list is in fact correct. You are obviously welcome to simply use our more complete list without the step of validating with Dr. Manulkin, but we don't see any rationale for using an incomplete list.

You further proposed that we just get a separate letter from Dr. Manulkin. But that obviously doesn't serve the objective—which you recognized by including a list of the destroyed documents in your letter—of having a letter from the entity responsible for the documents when they were destroyed that describes what was lost and why. Truly, we are haggling over whether this letter should have an incomplete list, compiled by non-faculty members, or a complete list that both students and faculty members are satisfied is accurate. Surely we can reach agreement that a complete list is better than an incomplete list.

If you have some objection to getting on the phone with Dr. Manulkin, we can reach out to her to ask her to provide a letter or declaration that validates that the attachment we prepared is accurate, but we would still need that document referenced in your letter so that the recipients of the letter can read it and know which documents were destroyed by the Contractor. The Receiver could say something to the effect of "we do not have first-hand knowledge of the precise contents of academic and training files maintained by GSPP that were destroyed by the Contractor. Dr. Alisa Manulkin, the Training Director for GSPP at the time that it closed, has provided the attached letter (or declaration) describing the files that were maintained by GSPP for students prior to the time the school closed."

Please provide your position on this proposal by Friday.

Thank you,

Eric Rothschild | Litigation Director
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From: Eric Rothschild <eric@nslsln.org>
Date: Tuesday, August 13, 2019 at 12:35 PM
To: "Berkson, Hugh D." <hdb@mccarthylebit.com>
Cc: Alex Elson <alex@nslsln.org>, Mary K Whitmer <mkw@weadvocate.net>, Eric Rothschild <eric@nslsln.org>
Subject: Re: Letter for Kimberly Milbrandt

Hugh:

Thank you for sending the word file. Ahead of our call tomorrow, I am attaching a redlined version with our edits. I have also attached an inventory of the documents that Dr. Manulkin will be able to vouch were maintained by GSPP for any student whose transcript indicates that she completed a course. We can arrange for her to get on the phone with you or ask her to send a letter or declaration to that effect. This will be the most helpful way to communicate to third parties who are evaluating students in the future what they lost when the files were destroyed.

In addition to discussing the letter, I assume you will be able to share with me on Wednesday who was responsible for the destruction of the files and how and when that happened—consistent with the Court's order regarding the students' recourse. To be clear, by seeking compliance with the Court's order, we are taking no position one way or the other about whether the Receiver should be pursuing the folks responsible for the record destruction, and never have. Right now we are just seeking the information that the students are entitled to, and which the Court required the Receiver to disclose, so that students can make their own judgments about what to do.

Best,

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From: "Berkson, Hugh D." <hdb@mccarthylebit.com>
Date: Friday, August 9, 2019 at 1:38 PM
To: Eric Rothschild <eric@nslsln.org>
Cc: Alex Elson <alex@nslsln.org>, Mary K Whitmer <mkw@weadvocate.net>
Subject: RE: Letter for Kimberly Milbrandt

Eric,

Wednesday at 1 is fine.

A copy of the Word file is attached as you requested. I note, however, that you could just as easily converted the document you have to Word to make whatever edits you propose be included.

While I'm sorry you believe the current letter somehow does a disservice to your clients, the letter is accurate as written. The simple and unpleasant truth is that we cannot under any circumstance know exactly what files were on the campus and destroyed. Your assertion that Dr. Mnulkin would say that a passing grade means that the documents existed and were destroyed does not make much sense as a broad statement. For example, among the files that could have existed were individual students' CVs. Is it your position that a passing grade for a particular class means that the student *did* have a CV on file? If you believe Dr. Mnulkin will provide some support for the contention that certain records actually existed for your clients, we invite you to obtain a letter, sworn statement, or whatever form of document you feel appropriate, from him directly.

As you are well aware, the Court ordered the Receiver to file a statement regarding the record destruction. The Receiver filed that report the very next day. The Court accepted the filing and we have not heard from anyone but you that it was in any way deficient. While you insist that the Receiver spend resources pursuing the folks responsible for the record destruction, you are curiously silent on how, exactly, you believe damages would be calculated. We cannot justify spending resources we do not have to pursue monetary damages we cannot calculate. I am working on getting the names of the people responsible and will forward those to you when I have them. I am certain you will then proceed as you see fit.

-Hugh Berkson

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From: Eric Rothschild

Sent: Thursday, August 08, 2019 5:29 PM

To: Berkson, Hugh D. <hdb@mccarthylebit.com>

Cc: Alex Elson <alex@nslldn.org>; Mary K Whitmer <mkw@weadvocate.net>; Eric Rothschild <eric@nslldn.org>

Subject: Re: Letter for Kimberly Milbrandt

Let's plan for Wednesday. Does 1 pm ET work?

Please send me word version so I can redline. One element I can tell you now is unsatisfactory are the qualifications that you "cannot state whether Ms. Milbrandt had such records on file at the school." That phrasing does a disservice to the students. My proposal to resolve that is to convene a call with the school's training director Dr. Mnulkin, who is prepared to vouch for students something to the effect that if they had a passing grade on their transcript, then the missing document would be in their files. Once you have spoken to her, you can phrase in the letter what the basis is for your understanding that the student had the records. I have spoken with counsel for Dr. Mnulkin who has confirmed she is prepared to assist the process in this way.

Also, please answer my question whether you are going to comply with the court's order to state "whether there is any recourse available to the Receiver or the students against the entity that destroyed the files," or whether I should take that up with the court now. I have asked the question at least a half dozen times without receiving a response. We expect that an appropriate response would be to identify the entity that destroyed the files, who retained that entity (I presume the Receiver or someone reporting to the Receiver), what instructions were given to that entity, and how those instructions were not followed, on what date the records were destroyed, and what steps, if any, the Receiver has taken regarding that entity.

Thank you,

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From: "Berkson, Hugh D." <hdb@mccarthylebit.com>
Date: Thursday, August 8, 2019 at 5:16 PM
To: Eric Rothschild <eric@nsldn.org>
Cc: Alex Elson <alex@nsldn.org>, Mary K Whitmer <mkw@weadvocate.net>
Subject: RE: Letter for Kimberly Milbrandt

I can be available next Wednesday or Thursday. If there are particular changes your clients want, please forward draft language in advance of any call.

-Hugh

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From: Eric Rothschild
Sent: Thursday, August 08, 2019 10:16 AM
To: Berkson, Hugh D. <hdb@mccarthylebit.com>
Cc: Alex Elson <alex@nsldn.org>; Mary K Whitmer <mkw@weadvocate.net>; Eric Rothschild <eric@nsldn.org>
Subject: Re: Letter for Kimberly Milbrandt

Hugh:

I am following up for a third time. I am hoping we can have a discussion about these items, before having to go to the court about them.

Eric Rothschild | Litigation Director
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From: Eric Rothschild <eric@nslsdc.org>

Date: Thursday, August 1, 2019 at 5:32 PM

To: "Berkson, Hugh D." <hdb@mccarthylebit.com>

Cc: Alex Elson <alex@nslsdc.org>, Mary K Whitmer <mkw@weadvocate.net>

Subject: Re: Letter for Kimberly Milbrandt

Hugh—could you provide some times next week to talk about the subjects below.

Best,

Eric Rothschild | Litigation Director

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From: Eric Rothschild <eric@nslsdc.org>

Date: Tuesday, July 30, 2019 at 12:37 PM

To: "Berkson, Hugh D." <hdb@mccarthylebit.com>

Cc: Alex Elson <alex@nslsdc.org>, Mary K Whitmer <mkw@weadvocate.net>

Subject: Re: Letter for Kimberly Milbrandt

Hugh:

Is there a good time to talk this week about both subjects in the email below:

- a. The contents of the letter to Milbrandt.
- b. Compliance with the Court's order to state "whether there is any recourse available to the Receiver or the students against the entity that destroyed the files."

Best,

Eric Rothschild | Litigation Director

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From: Eric Rothschild <eric@nslsdc.org>

Date: Wednesday, July 17, 2019 at 2:48 PM

To: "Berkson, Hugh D." <hdb@mccarthylebit.com>

Subject: Re: Letter for Kimberly Milbrandt

I am not signaling anything negative. The students know best what has been lost to them. Also, there may be tweaks necessary to clarify the developments—for example there is no language that makes clear that the Receiver was in charge and had engaged the contractor that destroyed the documents or that students were

not allowed access to the documents before the destruction occurred.

I appreciate that you have prepared the letter and want to work cooperatively to conclude this aspect of addressing the situation.

I also want to note that the Court ordered the Receiver to identify who was responsible for the loss of files and the Receiver has not done that. I am hoping we can get that out of the way as well, rather than have to go back to court over it.

Best,

Eric

On Jul 17, 2019, at 2:39 PM, Berkson, Hugh D. <hdb@mccarthylebit.com> wrote:

1. I can't send it directly to Kim because she's represented – by you.
2. We're working to get the letter to all affected students (directly or through counsel). That said, I'm having difficulty imagining what appropriate information you would want in the letter that isn't there.

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From: Eric Rothschild
Sent: Wednesday, July 17, 2019 2:30 PM
To: Berkson, Hugh D. <hdb@mccarthylebit.com>
Subject: Re: Letter for Kimberly Milbrandt

I meant—sent to Kim. Agree that putting in their hands for use as needed makes sense. I suggest not sending to any students yet, so if there are changes that the students and Receiver can agree on they can all be dealt with in one swoop.

Thanks,

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From: "Berkson, Hugh D." <hdb@mccarthylebit.com>
Date: Wednesday, July 17, 2019 at 2:28 PM

To: Eric Rothschild <eric@nslan.org>
Subject: RE: Letter for Kimberly Milbrandt

We haven't sent it to anyone but you, and can't since we haven't a clue who your client (or anyone else) would want to see it. We expect to deliver the letter to each former student to do with as they please.

-Hugh

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From: Eric Rothschild
Sent: Wednesday, July 17, 2019 2:27 PM
To: Berkson, Hugh D. <hdb@mccarthylebit.com>
Subject: Re: Letter for Kimberly Milbrandt

Thank you for sending this Hugh. Assuming you have not sent it, can you please hold while we review, and we can provide feedback on whether there are edits to discuss.

Best,

Eric Rothschild | Senior Counsel
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From: "Berkson, Hugh D." <hdb@mccarthylebit.com>
Date: Wednesday, July 17, 2019 at 2:23 PM
To: Eric Rothschild <eric@nslan.org>
Subject: RE: Letter for Kimberly Milbrandt

Eric,

I am in receipt of your emails regarding a proposed letter for Ms. Milbrandt and other students. The Receiver already had prepared a draft letter to be sent to the affected Georgia students. Your draft was therefore unnecessary.

Attached please find a copy of the signed letter for Ms. Milbrandt. Do I presume correctly that the rest of your clients want identical letters?

-Hugh

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From: Eric Rothschild
Sent: Tuesday, July 16, 2019 5:54 PM
To: Berkson, Hugh D. <hdb@mccarthylebit.com>
Subject: FW: Letter for Kimberly Milbrandt

When is a good time to discuss?

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From: Eric Rothschild <eric@nsldn.org>
Date: Friday, July 12, 2019 at 4:11 PM
To: "Berkson, Hugh D." <hdb@mccarthylebit.com>
Cc: Alex Elson <alex@nsldn.org>, Eric Rothschild <eric@nsldn.org>
Subject: Letter for Kimberly Milbrandt

Hugh:

Attached please find a draft of a letter that our client Kimberly Milbrandt requests the Receiver place on his letterhead and provide to her as a record of the destruction of her files. Our other clients intend to make the same request. We are available to discuss the phrasing of the letter.

Let us know a good time to discuss next week.

Best,

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